

REMARKS

The Office Action mailed July 13, 2005 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Subject Matter Indicated Allowed or Allowable

Applicants gratefully acknowledge the indication of allowance of claims 3 - 42. Applicants are further grateful for the indication of allowability of claim 2, subject to its re-writing in independent form. Claim 2 has been rewritten in independent form to include the limitations of independent claim 1, and is accordingly now in condition for allowance.

Rejection(s) Under 35 U.S.C. § 102

Claim 1 stands rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Robert, III, et al. (U.S. pat. no. 6,160,797).

Claim 1 has been amended to be identical to allowable amended claim 2, except for the omission from claim 1 of the last clause (“wherein said cherrypicker multiplexers further comprise circuitry to adjust the bandwidth of the MPEG transport streams so generated to match the available bandwidth to transport or process the data of said program(s)”) appearing in claim 2. It is believed that even without this clause, claim 1 is patentably distinct over Robert, III et al., because Robert, III et al. fails to disclose or suggest the remaining features of claim 1—namely:

wherein said cherrypicker multiplexers and said packet switch cooperate to receive data indicating video programs to be transmitted downstream to customers over DSL lines, cable television hybrid fiber coaxial cable networks or satellite downlinks and to receive MPEG data encapsulated in IP packet which are encapsulated in local area network packets from said IP wrapper circuit and to pick out only the MPEG packets containing data encoding the video programs which are to be transmitted and assemble said MPEG packets into MPEG transport streams

For this reason at least, it is respectfully submitted that claim 1 is now in condition for allowance and acknowledgment of same is respectfully urged.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.¹ The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. § 102 rejection based on Robert, III et al. is respectfully urged.

Conclusion

In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-1698.

Respectfully submitted,
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¹ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).